IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 13445 of 2004

Between:

Ravula Hanumantha Rao, s/o Venkata Narayana,
r/o Inagallu Village, Parchoor Mandal,
Prakasam District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep., by its Secretary, Endowments, Secretariat Buildings, Saifabad, Hyderabad.
2 The Commissioner of Endowments, Government of A.P., Hyderabad.
3 The Regional Joint Commissioner, Endowments, Tirupathi, Chittoor

District.
4 The Deputy Commissioner, Endowments, Guntur.
5 The Assistant Commissioner of Endowments, Ongole, Prakasam District.

6 Achutuni Suryanarayana, s/o Sri Rama Murthy,
Vura Tank, Inagallu Village, Parchur (M), Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction particularly in the nature of writ of mandamus declaring the inaction of the respondents in not taking action against the 6th respondent for misutilising the fixed deposit amounts of Vura Tank, Inagalu and in not rendering accounts to the trust board is as arbitrary, illegal and to issue a consequential direction to the respondents 1 to 5 to cause enquiry into the misdeeds of the 6th respondent in respect of the fixed deposits amounts of Vura Tank, Inagalu, Parchur

Mandal, Prakasam District and to take disciplinary action as per the rules.

Counsel for the Petitioner: MR.A.RAJENDRA BABU

Counsel for the Respondent Nos.1 to 5: GP FOR ENDOWMENTS

Counsel for the Respondent No.6: MR.K.SOMA KONDA REDDY

The Court made the following:

ORDER:

The petitioner claims to be the Chairman of the Trust Board of Sri Ura Tank, Ingallu village, Parchoor Mandal, Prakasam District, constituted under the proceedings of the Assistant Commissioner of Endowments, Ongole, dated 31.10.2002. The sixth respondent herein was appointed as the Executive Officer of the Ura Tank, which is registered with the Endowments department.

The petitioner alleges that the sixth respondent has committed several irregularities in maintaining the accounts and also misutilised the funds of Sri Ura Tank. One of the specific allegations made is that out of the sale proceeds of Rs.12,33,735/- realized in the public auction held on 21-01-1999 in respect of Ac.36.99 cents situated in Sy.No.61 of Inagallu village, Parchoor Mandal, Prakasam District which were invested in Union Bank of India by way of Fixed Deposits and Term Deposits, the 6th respondent failed to properly credit the interest accrued in the Savings Bank Account and misutilised Rs.1,87,000/-. He failed to produce the Pass Books and Account Books in the meetings of the Trust Board and failed to render the accounts. Further allegation is that in spite of the fact that the petitioner, who is the Chairman of the Trust Board, has directed the sixth respondent to convene the General Body Meeting, he failed to comply with the same. It is also stated that on the basis of a letter addressed by the Trust Board, the 5th respondent - Assistant Commissioner of Endowments by proceedings dated 25-05-2004 has directed the sixth respondent to fix up a date to convene the

General Body Meeting and intimate the trustees well in advance, however, the sixth respondent failed to do so. The petitioner made representations to the respondents 2 and 5 requesting to enquire into the misappropriation of funds by the 6th respondent. But, they failed to take any action. Hence, this writ petition seeking a declaration that the inaction on the part of respondents 1 to 5 in taking appropriate action against the sixth respondent, is arbitrary and illegal.

On behalf of respondents 1 to 5, no counter-affidavit has been filed. However, the sixth respondent has filed a counter-affidavit denying all the allegations made by the petitioner. The sixth respondent has also stated that in pursuance of the proceedings of the Assistant Commissioner of Endowments, he has already convened the General Body Meeting.

The petitioner filed an affidavit-in-reply disputing the version of the sixth respondent.

I have heard the learned Counsel for both the parties and perused the material on record.

It is to be noted that the Executive Officers shall be appointed for Charitable or Religious Institutions in terms of the procedure prescribed under Section 29 of the Andhra Pradesh Charitable & Hindu Religious Institutions & Endowments Act, 1987 (for short 'the Act'). Sub-section (5) of Section 29 of the Act makes it clear that the Executive Officer so appointed shall be under the administrative control of the trustee of the institution or endowment and shall be responsible for carrying out all the lawful directions issued by such trustee from time to time. Hence, undoubtedly, the 6th respondent is bound by the directions issued by the Board of Trustees to convene the meeting. However, the allegations of the petitioner as to non-compliance with the Board's directions as well as the alleged misappropriation and misutilisation of funds have been denied by the sixth respondent. This Court cannot investigate into the rival claims made by the parties and no finding as such can be recorded as to the correctness of the allegations made.

Having regard to the facts and circumstances of the case, I am of the view that it would be appropriate for the 2nd respondent – Commissioner of Endowments, who is conferred under Section 8 of the Act with the power of general superintendence and control of administration of all Charitable and Hindu Religious Institutions & Endowments which power includes to pass necessary orders to ensure that such institutions are properly administered and their income is duly appropriated, to look into the allegations made by the petitioner and to pass appropriate orders in accordance with law after making the necessary enquiry as he deems fit. Such exercise shall be completed as expeditiously as possible preferably within a period of eight weeks from the date of receipt of this order.

Accordingly, the Writ Petition is disposed of with the above directions. No costs.

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22.09.2004

VGB

To

1 The Secretary, Government of Andhra Pradesh, Endowments, Secretariat Buildings, Saifabad, Hyderabad.
2 The Commissioner of Endowments, Government of A.P., Hyderabad.
3 The Regional Joint Commissioner, Endowments, Tirupathi, Chittoor

District.
4 The Deputy Commissioner, Endowments, Guntur.
5 The Assistant Commissioner of Endowments, Ongole, Prakasam District.

6 2CCs to the Government Pleader for Endowments, High Court

Buildings, Hyderabad (OUT)

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